

REMARKS

Initially, Applicants would like to express their appreciation to the Examiner for the detailed Official Action provided, for the indication that the drawings filed on October 10, 2001 are acceptable, and for the acknowledgment of Applicants' Claim for Priority and receipt of the certified copy of the priority document in the Official Action.

Applicants would also like to express their appreciation to the Examiner for the acknowledgment of Applicants' Information Disclosure Statement filed on January 10, 2002, by return of the Form PTO-1449. Applicants note that a Supplemental Information Disclosure Statement was filed in the present application on February 19, 2003. The Examiner is therefore respectfully requested to acknowledge Applicants' Supplemental Information Disclosure Statement by returning a signed copy of the Form PTO-1449 attached thereto to Applicants with the next official communication in the present application.

Applicants acknowledge with appreciation the indication that claims 2 and 9 contain allowable subject matter, on page 11 of the Official Action.

Upon entry of the above amendments, the specification will have been amended, claims 1, 3-8, 10 and 11 will have been amended, claim 2 will have been cancelled, and claims 12-15 will have been submitted for consideration. Claims 1 and 3-15 are currently pending. Applicants respectfully request reconsideration of the outstanding objections

and rejections, and allowance of all the claims pending in the present application.

On page 1 of the Official Action, the specification was objected to as containing an apparent inconsistency. Applicants note that Paragraph [0017] of the specification has been amended to address the issue pointed out by the Examiner. In particular, Paragraph [0017] has been amended in order to correspond to the description found in claim 9 as originally filed. Accordingly, Applicants respectfully request that the Examiner withdraw the objection to the specification.

On page 1 of the Official Action, claim 11 was objected to as containing a minor informality. Applicants note that claim 11 has been amended to address the issue pointed out by the Examiner. In particular, the first line of claim 11 has been amended to change "objective lens" to --optical system--. Accordingly, Applicants respectfully request that the Examiner withdraw the objection to claim 11.

On pages 3-5 of the Official Action, claims 1, 5, 7 and 8 were rejected under 35 U.S.C. § 102(b) as being anticipated by LONDONO et al. (U.S. Patent No. 5,260,828).

Applicants respectfully traverse the rejection of claims 1, 5, 7 and 8 under 35 U.S.C. § 102(b).

Applicants note that each of independent claims 1, 5 and 7 have been amended to recite the subject matter of previous claim 2 (i.e., *an area of the peripheral area is not greater than an area of the central area*), which the Examiner has indicated as being

allowable.

Applicants also submit that dependent claim 8, which is at least patentable due to its dependency from claim 7, for the reasons noted above, recites additional features of the invention and is also separately patentable over the prior art of record.

Applicants respectfully submit that the rejection of claims 1, 5, 7 and 8 under 35 U.S.C. § 102(b) is improper at least for each and certainly for all of the above-noted reasons. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection, and an early indication of the allowance of these claims.

On pages 5 and 6 of the Official Action, claims 1, 3, 7 and 11 were rejected under 35 U.S.C. § 102(e) as being anticipated by MARUYAMA (U.S. Patent No. 6,191,889).

Applicants respectfully traverse the rejection of claims 1, 3, 7 and 11 under 35 U.S.C. § 102(e).

As noted above, each of independent claims 1 and 7 have been amended to recite the subject matter of previous claim 2 (i.e., *an area of the peripheral area is not greater than an area of the central area*), which the Examiner has indicated as being allowable.

Applicants also submit that dependent claims 3 and 11, which are at least patentable due to their dependency from claims 1 and 7, for the reasons noted above, recite additional features of the invention and are also separately patentable over the prior art of record.

Applicants respectfully submit that the rejection of claims 1, 3, 7 and 11 under 35 U.S.C. § 102(e) is improper at least for each and certainly for all of the above-noted reasons. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection, and an early indication of the allowance of these claims.

On pages 7-9 of the Official Action, claims 4, 6 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over LONDONO et al. (U.S. Patent No. 5,260,828) in view of KIRIKI et al. (U.S. Patent No. 6,349,083).

Applicants respectfully traverse the rejection of claims 4, 6 and 10 under 35 U.S.C. § 103(a).

Initially, Applicants note that the teachings of KIRIKI et al. fail to cure the deficiencies in the disclosure of LONDONO et al. noted above with regard to claims 1, 5 and 7. Accordingly, Applicants submit that claims 4, 6 and 10 are patentable at least due to their respective dependencies from claims 1, 5 and 7 for the reasons noted above. Further, claims 4, 6 and 10 recite additional features of the invention and are also separately patentable over the prior art of record.

Accordingly, Applicants submit that the rejection of claims 4, 6 and 10 under 35 U.S.C. § 103(a) is improper at least for each and certainly for all of the above reasons. Applicants respectfully request reconsideration and withdrawal of the rejection, and an early indication of the allowance of these claims.

On pages 9 and 10 of the Official Action, claim 11 was rejected under 35 U.S.C. § 101 for double patenting. The Examiner takes the position that claim 11 claims the same invention as claim 1 of U.S. Patent No. 6,191,889.

Applicants respectfully traverse the rejection of claim 11 under 35 U.S.C. § 101.

As an initial matter, Applicants note that claim 11 depends from claim 7, and accordingly includes all of the limitations recited therein. However, the Examiner has acknowledged that U.S. Patent No. 6,191,889 does not even disclose, *much less claim*, that *an area of the peripheral area is not greater than an area of the central area*, as presently recited in claim 7. Accordingly, for at least this difference between the claimed subject matter of claim 11 of the present application and claim 1 of U.S. Patent No. 6,191,889, Applicants submit that the rejection under 35 U.S.C. § 101 for double patenting is improper.

Further, Applicants also disagree with the Examiner's position regarding comparison of the other features recited in claim 11 of the present application and claim 1 of U.S. Patent No. 6,191,889. The Examiner points out *many features which are recited in one of the claims, but not the other*. However, the Examiner attempts to explain that such features which are *entirely absent* are "inherent" in the other claim. Applicants submit that this is an improper approach to applying a double patenting rejection under 35 U.S.C. § 101. Applicants submit that the missing features are clearly not recited in the

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claims, inherently or otherwise, and that the Examiner's bootstrapping attempt to read unrecited features into the claims is contrary to any proper standard of double patenting under 35 U.S.C. § 101.

Accordingly, Applicants submit that the rejection of claim 11 under 35 U.S.C. § 101 is improper at least for each and certainly for all of the above reasons. Applicants respectfully request reconsideration and withdrawal of the rejection, and an early indication of the allowance of this claim.

Applicants submit that newly presented claims 12-15 are also patentable over the prior art of record. In this regard, Applicants note that claim 12 contains the subject matter of previous claim 9, rewritten in independent form, which the Examiner has indicated as being allowable. Further, claims 13-15 each depend from claim 12. Accordingly, Applicants respectfully request an early indication of the allowance of these claims.

COMMENTS ON REASONS FOR ALLOWANCE

In regard to the Examiner's indication of allowable subject matter in claims 2 and 9 on page 11 of the Official Action, Applicants do not disagree with the Examiner's indication that (as noted by the Examiner):

The prior art taken either singularly or in combination fails to anticipate or fairly suggest the limitations of claims 2 and 9, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper.

The prior art fails to teach a combination of all the claimed features as presented in claim 2. For example, these features include the detailed structure recited in claim 1 and also the limitation that the area of the peripheral area is not greater than area of the central area.

The prior art fails to teach a combination of all the claimed features as presented in claim 9. For example, these features include the detailed structure recited in claim 7 and also the details of an optical system that converges laser beams of different wavelengths on different types of optical discs.

However, Applicants wish to make clear that the claims in the present application recite a combination of features, and that the patentability of these claims is also based on the totality of the features recited therein, which define over the prior art. Thus the reasons for allowance should not be limited to those mentioned by the Examiner.

SUMMARY AND CONCLUSION

Entry and consideration of the present amendment, reconsideration of the outstanding Official Action, and allowance of the present application and all of the claims therein are respectfully requested and now believed to be appropriate.


Applicants have made a sincere effort to place the present application in condition for allowance and believe that they have now done so.

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Any amendments to the claims that have been made in this amendment, which do not narrow the scope of the claims, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered cosmetic in nature, and to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
Shuichi TAKEUCHI et al.

Handwritten signature of Daniel H. Bernstein, with "Reg. No. 48,214" written next to it.

Bruce H. Bernstein
Reg. No. 29,027

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GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
(703) 716-1191